

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1287**

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**Introduced by Assembly Member Chiu**

February 27, 2015

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An act to amend Section 70615 of the Government Code, to amend Section 10878 of the Revenue and Taxation Code, and to amend Sections 9800, 40240, and 40241 of, to amend the heading of Article 3.5 (commencing with Section 40240) of Chapter 1 of Division 17 of, to add Section 40244 to, and to repeal and add Sections 40242 and 40243 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1287, as amended, Chiu. Vehicles: parking *and moving* violations: cameras.

Existing law, until January 1, 2016, authorizes the City and County of San Francisco (San Francisco) to install automated forward-facing parking control devices on city-owned public transit vehicles for the purpose of video imaging parking violations occurring in transit-only traffic lanes. Existing law subjects a violation of a federal or state statute or regulation, or a San Francisco ordinance, governing parking that is observed in the recordings to a civil penalty.

This bill would instead authorize San Francisco to install forward-facing cameras to record parking violations and ~~high-occupancy~~ *exclusive or preferential transit-only* lane and intersection obstruction violations. The bill would require ~~a high-occupancy~~ *an exclusive or preferential transit-only* lane or intersection obstruction violation recorded pursuant to these provisions to be subject to a civil penalty

not to exceed \$100. The bill would delete the repeal date, thereby extending the operation of these provisions indefinitely.

This bill would, among other things, authorize an issuing agency to assess late payment fees, as specified, if payment of the civil penalty is not received within a specified time. The bill would require the Department of Motor Vehicles to refuse to renew the registration of a vehicle if, among other things, the owner or lessee has not paid the civil penalty and late payment fees, except if he or she pays at the time of application for renewal. The bill would require the department to remit all penalties and late payment fees collected, after deducting administrative fees, to San Francisco.

Existing law provides that payments for specified penalties, including penalties for offenses relating to the parking of a vehicle, required to register or transfer the registration of a vehicle, constitute a lien on the vehicle on which the payments are due or which was involved in the offenses, and on any other vehicle owned by the owner of that vehicle.

This bill would also include payments for penalties for ~~high-occupancy~~ *exclusive or preferential transit-only* lane and intersection obstruction violations issued pursuant to the above-mentioned provisions as constituting a lien on the specified vehicles.

Existing law transfers the responsibility and authority for the collection of specified delinquent amounts, including penalties for offenses relating to the standing or parking of a vehicle, from the department to the Franchise Tax Board.

This bill would also transfer to the board the responsibility and authority to collect penalties for offenses relating to ~~a high-occupancy~~ *exclusive or preferential transit-only* lane or intersection obstruction violations issued pursuant to the above-mentioned provisions.

*This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 70615 of the Government Code is
- 2 amended to read:
- 3 70615. The fee for filing any of the following appeals to the
- 4 superior court is twenty-five dollars (\$25):

1 (a) An appeal of a local agency's decision regarding an  
2 administrative fine or penalty under Section 53069.4.

3 (b) An appeal under Section 40230 of the Vehicle Code of an  
4 administrative agency's decision regarding a parking violation or  
5 a violation of Section ~~21655.5, 21655.8, or 21655.5 or 21655.8 of~~  
6 *the Vehicle Code occurring in an exclusive or preferential*  
7 *transit-only lane or Section 22526 of the Vehicle Code* pursuant  
8 to Section 40240 of the Vehicle Code.

9 (c) An appeal under Section 99582 of the Public Utilities Code  
10 of a hearing officer's determination regarding an administrative  
11 penalty for fare evasion or a passenger conduct violation.

12 SEC. 2. Section 10878 of the Revenue and Taxation Code is  
13 amended to read:

14 10878. (a) Notwithstanding Sections 10877 and 10951, on  
15 and after July 1, 1993, the responsibility and authority for the  
16 collection of the following delinquent amounts, and any interest,  
17 penalties, or service fees added thereto, shall be transferred from  
18 the department to the Franchise Tax Board:

19 (1) Registration fees.

20 (2) Transfer fees.

21 (3) License fees.

22 (4) Use taxes.

23 (5) Penalties for offenses relating to the standing or parking of  
24 a vehicle for which a notice of parking violation, or for a violation  
25 of Section ~~21655.5, 21655.8, or 21655.5 or 21655.8 of the Vehicle~~  
26 *Code occurring in an exclusive or preferential transit-only lane*  
27 *or Section 22526 of the Vehicle Code* for which a notice issued  
28 pursuant to Section 40241 of the Vehicle Code, has been served  
29 on the owner, and any administrative service fee added to the  
30 penalty.

31 (6) Any court-imposed fine or penalty assessment, and any  
32 administrative service fee added thereto, that is subject to collection  
33 by the department.

34 (b) Any reference in this part to the department in connection  
35 with the duty to collect these amounts shall be deemed a reference  
36 to the Franchise Tax Board.

37 (c) The amounts collected under subdivision (a) may be  
38 collected in any manner authorized under the law as though they  
39 were a tax imposed under Part 10 (commencing with Section  
40 17001) that is final, including, but not limited to, issuance of an

1 order and levy under Article 4 (commencing with Section 706.070)  
2 of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil  
3 Procedure in the manner provided for earnings withholding order  
4 for taxes. Part 10 (commencing with Section 17001), 10.2  
5 (commencing with Section 18401), or 10.7 (commencing with  
6 Section 21001), or any other applicable law shall apply for this  
7 purpose in the same manner and with the same force and effect as  
8 if the language of Part 10, 10.2, or 10.7, or the other applicable  
9 law is incorporated in full into this authority to collect these  
10 amounts, except to the extent that the provision is either  
11 inconsistent with the collection of these amounts or is not relevant  
12 to the collection of these amounts.

13 (d) Even though the amounts authorized by this section are  
14 collected as though they are taxes, amounts so received by the  
15 Franchise Tax Board shall be deposited into an appropriate fund  
16 or account upon agreement between the Franchise Tax Board and  
17 the department. The amounts shall be distributed by the department  
18 from the appropriate fund or account in accordance with the laws  
19 providing for the deposits and distributions as though the moneys  
20 were received by the department.

21 (e) For any collection action under this section, the Franchise  
22 Tax Board may utilize the contract authorization, procedures, and  
23 mechanisms available either with respect to the collection of taxes,  
24 interest, additions to tax, and penalties pursuant to Section 18837  
25 or 19376, or with respect to the collection of the delinquencies by  
26 the department immediately prior to the time this section takes  
27 effect.

28 (f) The Legislature finds that it is essential for fiscal purposes  
29 that the program authorized by this section be expeditiously  
30 implemented. Accordingly, Chapter 3.5 (commencing with Section  
31 11340) of Part 1 of Division 3 of Title 2 of the Government Code  
32 shall not apply to any standard, criteria, procedure, determination,  
33 rule, notice, or guideline established or issued by the Franchise  
34 Tax Board in implementing and administering the program required  
35 by this section.

36 (g) Any standard, criteria, procedure, determination, rule, notice,  
37 or guideline, that is not subject to the provisions of Chapter 3.5  
38 (commencing with Section 11340) of Part 1 of Division 3 of Title  
39 2 of the Government Code pursuant to subdivision (f), shall be  
40 approved by the Franchise Tax Board, itself.

(h) The Franchise Tax Board may enter into any agreements or contracts necessary to implement and administer the provisions of this section. The Franchise Tax Board in administering this section may delegate collection activities to the department. Any contracts may provide for payment of the contract on the basis of a percentage of the amount of revenue realized as a result of the contractor's services under that contract. However, the Franchise Tax Board, in administering this part, may not enter into contracts with private collection agencies as authorized under Section 19377.

SEC. 3. Section 9800 of the Vehicle Code is amended to read:

9800. (a) Payments for any of the following, and any interest, penalties, or service fees added thereto, required to register or transfer the registration of a vehicle, constitute a lien on the vehicle on which they are due or which was involved in the offense, and on any other vehicle owned by the owner of that vehicle:

(1) Registration fees.

(2) Transfer fees.

(3) License fees.

(4) Use taxes.

(5) Penalties for offenses relating to the standing or parking of a vehicle for which a notice of parking violation, or for a violation of Section ~~21655.5, 21655.8, or 21655.5 or 21655.8 occurring in an exclusive or preferential transit-only lane or Section 22526 of the Vehicle Code~~ for which a notice issued pursuant to Section 40241 of the Vehicle Code, has been served on the owner, and any administrative service fee added to the penalty.

(6) Any court-imposed fine or penalty assessment, and any administrative service fee added thereto, which is subject to collection by the department.

(b) Notwithstanding subdivision (a), if a person is cited for a foreign registered auxiliary dolly, semitrailer, or trailer having been operated without current year registration or valid California permits or registration, an amount equal to the minimum registration fees or transfer fees, and any penalty added thereto, from the date they became due, shall, by election of the power unit operator, constitute a lien upon the California registered power unit that was pulling the dolly, semitrailer, or trailer. However, this subdivision is not applicable if the citation is issued at a scale operated by the Department of the California Highway Patrol and

1 registration for the vehicle can be issued there immediately upon  
2 payment of the fees due.

3 (c) Every lien arising under this section expires three years from  
4 the date the fee, tax, parking, or other penalty first became due  
5 unless the lien is perfected pursuant to subdivision (d).

6 (d) A lien is perfected when a notice is mailed to the registered  
7 and legal owners at the addresses shown in the department's  
8 records and the lien is recorded on the electronic vehicle  
9 registration records of the department. A perfected lien shall expire  
10 five years from the date of perfection.

11 (e) Employees and members of the Department of the California  
12 Highway Patrol assigned to commercial vehicle scale facilities  
13 may possess and sell trip permits approved by the Department of  
14 Motor Vehicles.

15 SEC. 4. The heading of Article 3.5 (commencing with Section  
16 40240) of Chapter 1 of Division 17 of the Vehicle Code is amended  
17 to read:

18  
19 Article 3.5. Procedure for Recording Parking Violations and  
20 Certain Moving Violations  
21

22 SEC. 5. Section 40240 of the Vehicle Code is amended to read:

23 40240. (a) The City and County of San Francisco may install  
24 forward-facing cameras on city-owned public transit vehicles that  
25 are part of a public transportation system, as defined by Section  
26 99211 of the Public Utilities Code, for the purpose of recording  
27 parking violations and violations of ~~Sections 21655.5, 21655.8,~~  
28 ~~and Sections 21655.5 and 21655.8 occurring in an exclusive or~~  
29 ~~preferential transit-only lane and Section 22526.~~ The cameras  
30 shall be angled and focused so as to record parking violations and  
31 not unnecessarily capture identifying images of other drivers,  
32 vehicles, and pedestrians. The cameras shall record the date and  
33 time of the violation at the same time the violation is recorded.

34 (b) (1) A designated employee of the City and County of San  
35 Francisco, who is qualified by the city and county to issue citations,  
36 shall review the camera recordings for the purpose of determining  
37 whether a parking violation or a violation of ~~Section 21655.5,~~  
38 ~~21655.8, or 21655.5 or 21655.8 occurring in an exclusive or~~  
39 ~~preferential transit-only lane or Section 22526~~ occurred. A  
40 violation of a statute, regulation, or ordinance governing vehicle

1 parking under this code, under a federal or state statute or  
2 regulation, or under an ordinance enacted by the City and County  
3 of San Francisco, or a violation of Section ~~21655.5, 21655.8, or~~  
4 ~~21655.5 or 21655.8 occurring in an exclusive or preferential~~  
5 ~~transit-only lane or Section 22526~~, observed by the designated  
6 employee in the recordings is subject to a civil penalty.

7 (2) Notwithstanding any other law, a violation of Section  
8 ~~21655.5, 21655.8, or 21655.5 or 21655.8 occurring in an exclusive~~  
9 ~~or preferential transit-only lane or Section 22526~~ that is recorded  
10 pursuant to this section shall be subject to a civil penalty that shall  
11 not exceed one hundred dollars (\$100), which shall be remitted to  
12 the City and County of San Francisco.

13 (c) The registered owner, or an individual identified by the  
14 registered owner as the driver of the vehicle at the time of the  
15 alleged violation, shall be permitted to review the recorded  
16 evidence of the alleged violation during normal business hours at  
17 no cost.

18 (d) (1) Except as it may be included in court records described  
19 in Section 68152 of the Government Code, or as provided in  
20 paragraph (2), the recorded evidence may be retained for up to six  
21 months from the date the information was first obtained, or 60  
22 days after final disposition of the citation, whichever date is later,  
23 after which time the information shall be destroyed.

24 (2) Notwithstanding Section 26202.6 of the Government Code,  
25 recorded evidence from forward-facing cameras that does not  
26 contain evidence of a parking violation or a violation of Section  
27 ~~21655.5, 21655.8, or 21655.5 or 21655.8 occurring in an exclusive~~  
28 ~~or preferential transit-only lane or Section 22526~~ shall be  
29 destroyed within 15 days after the information was first obtained.

30 (e) Notwithstanding Section 6253 of the Government Code, or  
31 any other law, the camera recordings are confidential. Public  
32 agencies shall use and allow access to these records only for the  
33 purposes authorized by this article.

34 (f) For purposes of this article, “local agency” means the City  
35 and County of San Francisco.

36 SEC. 6. Section 40241 of the Vehicle Code is amended to read:

37 40241. (a) A designated employee of the local agency shall  
38 issue a notice of violation to the registered owner of a vehicle  
39 within 15 calendar days of the date of the violation. The notice of  
40 violation shall set forth the violation of a statute, regulation, or

1 ordinance governing vehicle parking under this code, under a  
2 federal or state statute or regulation, or under an ordinance enacted  
3 by the City and County of San Francisco, or a violation of Section  
4 ~~21655.5, 21655.8, or 21655.5 or 21655.8 occurring in an exclusive~~  
5 *or preferential transit-only lane or Section 22526*, a statement  
6 indicating that payment is required within 21 calendar days from  
7 the date of citation issuance, and the procedure for the registered  
8 owner, lessee, or rentee to deposit the penalty or contest the citation  
9 pursuant to Section 40215. The notice of violation shall also set  
10 forth the date, time, and location of the violation, the vehicle license  
11 number, registration expiration date if visible, the color of the  
12 vehicle, and, if possible, the make of the vehicle. The notice of  
13 violation, or copy of the notice, shall be considered a record kept  
14 in the ordinary course of business of the City and County of San  
15 Francisco and shall be prima facie evidence of the facts contained  
16 in the notice. The City and County of San Francisco shall send  
17 information regarding the process for requesting review of the  
18 recorded evidence along with the notice of violation.

19 (b) The notice of violation shall be served by depositing the  
20 notice in the United States mail to the registered owner's last  
21 known address listed with the Department of Motor Vehicles.  
22 Proof of mailing demonstrating that the notice of violation was  
23 mailed to that address shall be maintained by the local agency. If  
24 the registered owner, by appearance or by mail, makes payment  
25 to the processing agency or contests the violation within either 21  
26 calendar days from the date of mailing of the citation, or 14  
27 calendar days after the mailing of the notice of delinquent violation,  
28 the penalty shall consist solely of the amount of the original  
29 penalty.

30 (c) If, within 21 days after the notice of violation is issued, the  
31 local agency determines that, in the interest of justice, the notice  
32 of violation should be canceled, the local agency shall cancel the  
33 notice of violation pursuant to subdivision (a) of Section 40215.  
34 The reason for the cancellation shall be set forth in writing.

35 (d) Following an initial review by the local agency, and an  
36 administrative hearing, pursuant to Section 40215, a contestant  
37 may seek court review by filing an appeal of a parking violation  
38 or a violation of Section ~~21655.5, 21655.8, or 21655.5 or 21655.8~~  
39 *occurring in an exclusive or preferential transit-only lane or*

1 *Section 22526* following the procedures for appeals of parking  
2 violations set forth in *Section 40230*.

3 (e) The City and County of San Francisco may contract with a  
4 private vendor for the processing of notices of violations and  
5 notices of delinquent violations. The City and County of San  
6 Francisco shall maintain overall control and supervision of the  
7 program.

8 SEC. 7. *Section 40242* of the Vehicle Code is repealed.

9 SEC. 8. *Section 40242* is added to the Vehicle Code, to read:

10 40242. (a) If payment of the penalty is not received by the  
11 person authorized to receive a deposit of the penalty by the time  
12 and date fixed on the notice of violation under *Section 40241*, the  
13 issuing agency may assess late payment fees in an amount as  
14 determined by the issuing agency, and shall serve or mail to the  
15 registered owner a notice of delinquent violation.

16 (b) Delivery of a notice of delinquent violation under this section  
17 may be made by personal service or by first-class mail addressed  
18 to the registered owner.

19 (c) The notice of delinquent violation shall contain a notice to  
20 the registered owner that, unless the registered owner pays the  
21 penalty or contests the notice within 15 days after mailing of the  
22 notice of delinquent violation, the renewal of the vehicle  
23 registration shall be contingent upon compliance with the notice  
24 of delinquent violation. If the registered owner, by appearance or  
25 by mail, makes payment to the issuing agency within 15 days of  
26 the mailing of the notice of delinquent violation, the penalty shall  
27 consist of the amount of the original penalty and any late payment  
28 fees.

29 SEC. 9. *Section 40243* of the Vehicle Code is repealed.

30 SEC. 10. *Section 40243* is added to the Vehicle Code, to read:

31 40243. (a) (1) Except as provided in subdivisions (b) and (d),  
32 the department shall refuse to renew the registration of a vehicle  
33 if the registered owner or lessee has been mailed a notice of  
34 delinquent violation, the processing agency has filed or  
35 electronically transmitted to the department an itemization of  
36 unpaid violation penalties, including late payment fees, and the  
37 owner or lessee has not paid the violation penalty and late payment  
38 fees, unless he or she pays to the department, at the time of  
39 application for renewal, the full amount of all outstanding penalties,  
40 late payment fees, and any administrative fee assessed by the

1 department pursuant to subdivision (b) of Section 40244, as shown  
2 by records of the department.

3 (2) When the department receives the full amount of all  
4 outstanding violation penalties, late payment fees, and  
5 administrative fees pursuant to paragraph (1), the department shall  
6 issue a receipt showing each penalty, late payment fee, and  
7 administrative fee that has been paid, the processing agency for  
8 those penalties and fees, and a description of the vehicle involved  
9 in the violations.

10 (b) The department shall not refuse to renew the registration of  
11 a vehicle if the applicant provides the department with the abstract  
12 or notice of disposition of violation issued pursuant to subdivision  
13 (c) for clearing all outstanding penalties, late payment fees, and  
14 administrative fees as shown by the records of the department.

15 (c) The court or designated processing agency shall issue an  
16 abstract or notice of disposition of violation to the registered owner  
17 of a vehicle issued a notice of delinquent violation if the registered  
18 owner provides the court or processing agency with the name,  
19 address, and driver's license number of the rentee or lessee at the  
20 time of occurrence of the violation, and adequate proof that the  
21 renter or lessee had possession of the vehicle at the date and time  
22 of the violation.

23 (d) The department shall not refuse to renew the registration of  
24 a vehicle if the violation was issued prior to the registered owner  
25 taking possession of the vehicle.

26 SEC. 11. Section 40244 is added to the Vehicle Code, to read:

27 40244. (a) The department shall remit all penalties and late  
28 payment fees collected, after deducting the administrative fee  
29 authorized in subdivision (b), for each notice of delinquent  
30 violation for which penalties and late payment fees have been  
31 collected, to the City and County of San Francisco in the amount  
32 due. Within 45 days from the time penalties are recorded by the  
33 department, the department shall inform the City and County of  
34 San Francisco which of its notices of delinquent violation have  
35 been discharged.

36 (b) The department shall assess a fee for recording the notice  
37 of delinquent violation in an amount, as determined by the  
38 department, that is no more than the amount sufficient to cover its  
39 actual administrative costs.

1     *SEC. 12. The Legislature finds and declares that a special law*  
2     *is necessary and that a general law cannot be made applicable*  
3     *within the meaning of Section 16 of Article IV of the California*  
4     *Constitution because of the unique circumstances relating to*  
5     *parking and moving violations recorded by cameras on city-owned*  
6     *public transit vehicles in the City and County of San Francisco.*

O